

### **REMARKS**

This responds to the Office Action dated on November 27, 2007.

Claims 1 and 8 are amended. Claims 1-10 are now pending in this application.

#### **Information Disclosure Statement**

Applicant submitted an Information Disclosure Statement and a 1449 Form on December 22, 2003 and a Supplemental Information Disclosure Statement and a 1449 Form on August 10, 2005. Applicant respectfully requests that initialed copies of the 1449 Forms be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

#### **§103 Rejection of the Claims**

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cohen (U.S. Patent No. 5,269,301) in view of Morris (U.S. Patent No. 6,052,614). Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cohen, and in further view of Ouchi (U.S. Patent No. 5,741,214) or Swanson (U.S. Patent No. 6,488,679). The rejections are traversed and reconsideration is respectfully requested.

As amended herein, claim 1 recites an implantable medical device that includes two electrodes adapted for disposition at an internal body location in contact with body fluids, a current source for injecting current between the two electrodes, an oscillator for driving the current source, and circuitry for modulating the waveform produced by the oscillator to produce potential signals encoded with command information that can be sensed at a skin surface location. The conductive fluids within the body may be characterized as a volume conductor. Injection of current between the two electrodes produces a potential field within the body that can be sensed at a skin surface location, similar to the bioelectric current sources within the body such as the heart. (The electrical activity of the heart produces a similar potential field that can be sensed at skin surface locations as an electrocardiogram.) The recited system thus includes components for enabling communication between the implantable device and the external drug delivery device that Applicant believes is distinctly different than anything taught or suggested

by the prior art of record. Conventional telemetry systems for enabling communications between an implantable device and an external device (e.g., an external programmer) utilize either inductive or RF telemetry to transmit information between the devices. Among the advantages of the recited communications system are lower power requirements and the possible utilization of constant current injected between the electrodes to measure impedance related to a physiological variable (as recited by claim 8). Neither the Cohen nor the Morris reference describes anything related to an implantable medical device in communication with an external drug delivery device as recited in the pending claims. Applicant believes that the recitations of claim 1, as well as the recitations of claims 2-10 depending therefrom, are neither taught nor suggested by any combination of the teachings found in the prior art of record. Withdrawal of the rejections is respectfully requested.

#### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date February 27, 2008

By /s/ Kevin Parker/  
J. Kevin Parker  
Reg. No. 33,024

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 27th day of February 2008.  
Kate Gannon

Name

Signature